

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 311 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

TASNIM SAIFUDDIN RAJGADHAWALA

Versus

BY CONSERVATOR OF FOREST

Appearance:

MR MA KHARADI for Petitioner

MR AG URAIZEE, LD. APP with MR. MR ANAND, LD. PP for respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 19/07/96

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. A.G. Uraizee,
Ld. APP with Mr. M.R. Anand, Ld. PP for the respondents.

This Special Criminal Application is directed
against the judgment and order dated 23/2/1996 rendered
by the learned Additional Sessions Judge, Vadodara in

Criminal Appeal No. 12 of 1994 u/S. 61-D of the Indian Forest Act, 1927 (for short 'the Act') alongwith Gujarat Amending Act.

Short question on which this petition deserves to be allowed centres round the contention that the learned Addl. Sessions Judge has no jurisdiction to entertain the appeal under the aforesaid provisions of the Act. Under sec. 61-D of the Act the jurisdiction to hear and decide the appeal is conferred upon the Sessions Judge using the words "Sessions Judge" as distinguished from the words "Sessions Court". This Court, in the case of State v/s. Siddik Haji Ibrahim Patel reported in 1996 (1) G.L.R. 798 had an occasion to consider the aforesaid provisions of the Act. This Court held that the jurisdiction conferred is persona designata and not the Court of Sessions, with the result that the jurisdiction could not be delegated to the learned Additional Sessions Judge.

In this view of the matter the impugned judgment and order are required to be quashed and set aside only on the ground that the learned Addl. Sessions Judge lacked jurisdiction to hear the appeal. Hence, this Special Criminal Application is accordingly allowed. The matter is remanded to the learned Sessions Judge, Vadodara to deal with and decide the appeal in accordance with law. The appeal shall be decided as expeditiously as possible. Rule made absolute accordingly.

Office to send the writ immediately.

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